

SENATE BILL NO. 92

INTRODUCED BY K. TOOLE

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE METHOD OF APPRAISING RESIDENTIAL AND COMMERCIAL CONDOMINIUM PROPERTY FOR PROPERTY TAX PURPOSES; AMENDING SECTIONS 15-8-111, 15-8-511, AND 15-8-512, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-8-111, MCA, is amended to read:

**"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) If the department uses the ~~capitalization-of-net-income~~ capitalization-of-net-income method as one approximation of market value and sufficient, relevant information on comparable sales and construction cost exists, the department shall rely upon the two methods that provide a similar market value as the better indicators of market value.

(d) Except as provided in subsection (3), the market value of special mobile equipment and agricultural tools, implements, and machinery is the average wholesale value shown in national appraisal guides and manuals or the value before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

1 (a) the wholesale value for agricultural implements and machinery is the average wholesale value  
 2 category as shown in Guides 2000, Northwest Region Official Guide, published by the North American  
 3 equipment dealers association, St. Louis, Missouri. If the guide or the average wholesale value category is  
 4 unavailable, the department shall use a comparable publication or wholesale value category.

5 (b) for agricultural implements and machinery not listed in an official guide, the department shall prepare  
 6 a supplemental manual in which the values reflect the same depreciation as those found in the official guide;  
 7 ~~and~~

8 (c) for condominium property, the department shall establish the value as provided in subsection (4);  
 9 and

10 (d) as otherwise authorized in Titles 15 and 61.

11 (4) (a) Subject to subsection (4)(c), if sufficient, relevant information on comparable sales is available,  
 12 the department shall use the comparable sales method to appraise residential condominium units. Because the  
 13 undivided interest in common elements is included in the sales price of the condominium units, the department  
 14 is not required to separately allocate the value of the common elements to the individual units being valued.

15 (b) Subject to subsection (4)(c), if sufficient, relevant information on income is made available to the  
 16 department, the department shall use the capitalization-of-net-income method to appraise commercial  
 17 condominium units. Because the undivided interest in common elements contributes directly to the  
 18 income-producing capability of the individual units, the department is not required to separately allocate the  
 19 value of the common elements to the individual units being valued.

20 (c) If sufficient, relevant information on comparable sales is not available for residential condominium  
 21 units or if sufficient, relevant information on income is not made available for commercial condominium units,  
 22 the department shall value condominiums using the construction-cost method. When using the construction-cost  
 23 method, the department shall determine the value of the entire condominium project and allocate a percentage  
 24 of the total value to each individual unit. The allocation is equal to the percentage of undivided interest in the  
 25 common elements for the unit as expressed in the declaration made pursuant to 70-23-403, regardless of  
 26 whether the percentage expressed in the declaration conforms to market value.

27 (5) For purposes of taxation, assessed value is the same as appraised value.

28 (5)(6) The taxable value for all property is the percentage of market or assessed value established for  
 29 each class of property.

30 (6)(7) The assessed value of properties in 15-6-131 through 15-6-134, 15-6-143, and 15-6-145 is as

1 follows:

2 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after  
3 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,  
4 15-23-516, 15-23-517, or 15-23-518.

5 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

6 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the  
7 lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as  
8 agricultural lands for tax purposes.

9 (d) Properties in 15-6-134, under class four, are assessed at the applicable percentage of market value  
10 minus any portion of market value that is exempt from taxation under 15-6-201(1)(z) and (1)(aa).

11 (e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value of the  
12 land when valued as forest land.

13 (f) Railroad transportation properties in 15-6-145 are assessed based on the valuation formula  
14 described in 15-23-205.

15 ~~(7)~~(8) Land and the improvements on the land are separately assessed when any of the following  
16 conditions occur:

17 (a) ownership of the improvements is different from ownership of the land;

18 (b) the taxpayer makes a written request; or

19 (c) the land is outside an incorporated city or town."  
20

21 **Section 2.** Section 15-8-511, MCA, is amended to read:

22 **"15-8-511. Undivided interest in common elements of condominium project -- definition.** (1) Each  
23 unit of a condominium project is considered a parcel of real property subject to separate assessment and  
24 taxation. Each unit owner must be assessed for the unit owner's percentage of undivided interest in elements  
25 of the condominium project, except parks, owned in common by the unit owners. The percentage of undivided  
26 interest stated in a unit declaration is the figure to be used in assessing common elements under this section.

27 ~~(2) Unless otherwise agreed by all the unit owners, for purposes of assessment common elements~~  
28 ~~include:~~

29 ~~— (a) the land on which the building is located, except any portion thereof included in a unit or made a~~  
30 ~~limited common element by the declaration;~~

1 ~~—— (b) the foundations, columns, girders, beams, supports, mainwalls, roofs, halls, corridors, lobbies, stairs,~~  
 2 ~~fire escapes, entrances, and exits of the building;~~  
 3 ~~—— (c) the basements, yards, gardens, parking areas, outside storage spaces, private pathways, sidewalks,~~  
 4 ~~and private roads;~~  
 5 ~~—— (d) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration,~~  
 6 ~~air conditioning, waste disposal, and incinerating;~~  
 7 ~~—— (e) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and~~  
 8 ~~installations existing for common use;~~  
 9 ~~—— (f) the premises for the lodging of janitors or caretakers of the property; and~~  
 10 ~~—— (g) all other elements of the building necessary or convenient to its existence, maintenance, and safety~~  
 11 ~~and normally in common use~~ As used in this chapter, "common elements" has the meaning provided in  
 12 70-23-102."  
 13

14 **Section 3.** Section 15-8-512, MCA, is amended to read:

15 **"15-8-512. Common elements serving residential or commercial development.** (1) Each lot in a  
 16 residential or commercial development, regardless of whether improved or unimproved, is considered a parcel  
 17 of real property subject to separate assessment and taxation. ~~Each lot owner is assessed on a pro rata basis~~  
 18 ~~for elements of the development serving the lots in common, such as recreational areas, pathways, sidewalks,~~  
 19 ~~private roads, street lights, main communication cables, main gas or electric lines, community water and sewer~~  
 20 ~~systems, or any other common element enumerated in 15-8-511, but not for park areas that serve the lots~~ The  
 21 value of common elements must be allocated to each lot owner pursuant to 15-8-111.

22 (2) The assessment provisions of subsection (1) are not negated by the existence or formation of a  
 23 contract between the developer and lot purchasers or an agreement among lot purchasers that would attempt  
 24 to obligate the developer or an association of lot owners to pay taxes on the common elements."  
 25

26 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.  
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28 NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the  
 29 meaning of 1-2-109, to property tax years beginning after December 31, 2004.  
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